

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

July 27, 1979

Memorandum For NEPA Liaisons

Subject: Responding To Significant Comments on Proposed Agency
Procedures

Most Federal agencies already have or will soon publish proposed implementing procedures in the Federal Register. We have enclosed a copy of the Council's second status report on agency procedures which reflects the progress that has been made so far. We anticipate that within the next several weeks, following the period of public review and comment, the remaining agencies will complete the job of preparing final procedures for review by the Council and publication in the Federal Register.

In preparing final drafts of the NEPA procedures, renewed attention should be given to cutting down on unnecessary length and to insuring that the procedures are written in plain language. We have two specific recommendations to carry this out. First, if your agency's procedures are unusually detailed and lengthy, give careful consideration to taking non-essential material out and putting it in a handbook or manual. Second, the final draft of the procedures should be given to an experienced editor for appropriate revisions to conform to the President's plain language requirement.

In developing a preamble for final procedures, it is important that agencies respond point-by-point to the major comments they received on the proposed procedures. A point-by-point response provides assurances that comments were seriously considered and explains the basis of the decisions reached by the agency in promulgating final procedures. The Council followed this approach in adopting final regulations and its preamble, which is found at 43 Fed. Reg. 55978, Nov. 29, 1978, may serve as a model for those drafting final procedures.



NICHOLAS C. YOST
General Counsel

Enclosure

the Transient Thermal Lens Effect; filed January 31, 1979.

Patent application 6,008,212: Method of Mitigating Titanium Impurities Effects in p-Type Silicon Material for Solar Cells; filed January 31, 1979.

Patent application 969,757: A Method and Technique for Installing Light-Weight Fragile, High-Temperature Fiber Insulation; filed December 15, 1978.

Patent 4,133,697: Solar Array Strip and a Method for Forming the Same; filed June 24, 1977; patented January 9, 1979; not available NTIS.

Patent 4,133,941: Formulated Plastic Separators for Soluble Electrode Cells; filed March 10, 1977; patented January 9, 1978; not available NTIS.

Patent 4,134,447: Thermal Compensator for Closed-Cycle Helium Refrigerator; filed September 30, 1977; patented January 16, 1979; not available NTIS.

Patent 4,134,744: Fine Particulate Capture Device; filed November 8, 1978; patented January 16, 1979; not available NTIS.

Patent 4,134,786: Process for Purification of Waste Water Produced by a Kraft Process Pulp and Paper Mill; filed December 15, 1976; patented January 16, 1979; not available NTIS.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets, N.W., Washington, D.C. 20240.

Patent application 950,761: Backwashing Reverse-Osmosis and Ultrafiltration Membrane; filed October 12, 1978.

Patent application 950,762: Method of and Apparatus for Detecting Escaping Leach Solution; filed October 12, 1978.

Patent 4,079,592: Method of and Apparatus for Feeding and Inserting Bolts in a Mine Roof; filed March 4, 1977; patented March 21, 1978; not available NTIS.

Patent 4,079,809: Muffler for Pneumatic Drill; filed July 13, 1977; patented March 21, 1978; not available NTIS.

Patent 4,085,017: Recovery of Copper and Nickel from Alloys; filed September 6, 1977; patented April 18, 1978; not available NTIS.

Patent 4,133,967: Two-Stage Electric Arc-Electroslag Process and Apparatus for Continuous Steelmaking; filed June 24, 1977; patented January 9, 1979; not available NTIS.

[FR Doc. 79-22506 Filed 7-20-79; 8-45 am]
 BILLING CODE 3510-04-M

COUNCIL ON ENVIRONMENTAL QUALITY

Second Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act

July 18, 1979.

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information Only: Publication of Second Progress Report on Agency Implementing Procedures Under The National Environmental Policy Act.

SUMMARY: In response to President Carter's Executive Order 11991, on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). (43 FR 55978-56007; 40 CFR 1500-08) Section 1507.3 of the regulations provides that each agency of the Federal Government shall adopt procedures to supplement the regulations by July 30, 1979. The Council has indicated to Federal agencies its intention to publish progress reports on agency efforts to develop implementing procedures under the NEPA regulations. The purpose of these progress reports, the second of which appears below, is to provide an update on where agencies stand in this process and to inform interested persons of when to expect the publication of proposed procedures for their review and comment.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006; 202-395-5750.

Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act

At the direction of President Carter (Executive Order 11991), on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). These regulations appear at Volume 43 of the Federal Register, pages 55978-56007 and Volume 40 of the Code of Federal Regulations, Sections 1500-1508. Their purpose is to reduce paperwork and delay associated with the environmental review process and to foster environmental quality through better decisions under NEPA.

Section 1507.3 of the NEPA regulations provides that each agency of the Federal government shall adopt procedures to supplement the regulations. The purpose of agency "implementing procedures," as they are called, is to translate the broad standards of the Council's regulations into practical action in Federal planning and decisionmaking. Agency procedures will provide government personnel with additional, more specific direction for implementing the procedural provisions of NEPA, and will inform the public and State and local officials of how the NEPA regulations will be applied to individual Federal programs and activities.

In the course of developing implementing procedures, agencies are

required to consult with the Council and to publish proposed procedures in the Federal Register for public review and comment. Proposed procedures must be revised as necessary to respond to the ideas and suggestions made during the comment period. Thereafter, agencies are required to submit the proposed final version of their procedures for 30 days review by the Council for conformity with the Act and the NEPA regulations. After making such changes as are indicated by the Council's review, agencies are required to promulgate their final procedures by July 30.

It is apparent that a number of Federal agencies will not meet this deadline. The Council has advised Federal agencies that failure to do so would represent a violation of § 1507.3 of the NEPA regulations. Substantial delays in adopting procedures beyond this deadline would also raise more general concerns about the adequacy of an agency's compliance with NEPA.

On May 7, 1979 the Council published its first progress report on agency implementing procedures, 44 Federal Register 26781-82. Its second progress report appears below. The Council hopes that concerned members of the public will review and comment upon agency procedures to insure that the reforms required by President Carter and by the Council's regulations are implemented. Agencies preparing implementing procedures are listed under one of the following three categories:

Category #1: Proposed Procedures Have Been Published

This category includes agencies whose proposed procedures have either appeared in the Federal Register or been transmitted to the Federal Register for publication.

Advisory Council on Historic Preservation, 44 FR 40653 (July 12)
 Central Intelligence Agency, 44 FR 23103 (April 18)
 Department of Agriculture, 44 FR 25606 (May 1)
 Animal and Plant Health Inspection Service, 44 FR 38945 (July 3)
 Forest Service, 44 FR 23891 (April 23)
 Rural Electrification Administration, 44 FR 28383 (May 15)
 Soil Conservation Service, 44 FR 25788 (May 2)
 Department of Defense, 44 FR 28338 (May 15)
 Department of the Air Force, (At the Federal Register)
 Army Corps of Engineers, 44 FR 38292 (June 29)
 Department of Energy, 44 FR 42136 (July 18)
 Department of the Interior, 44 FR 40437 (July 10)
 Department of Justice, (At the Federal Register)

Department of Transportation, 44 FR 31341 (May 31)
 Coast Guard, 44 FR 37098 (June 25)
 Federal Aviation Administration, 44 FR 32094 (June 4)
 Federal Railroad Administration, 44 FR 40174 (July 9)
 Department of the Treasury, 44 FR 39692 (July 6)
 Environmental Protection Agency, 44 FR 35158 (June 18)
 Export-Import Bank, 44 FR 28823 (May 17)
 Federal Communications Commission, 44 FR 38913 (July 3)
 Federal Maritime Commission, 44 FR 29122 (May 18)
 Federal Trade Commission, (At the Federal Register)
 General Services Administration, Agency Wide Procedures, 44 FR 33485 (June 11)
 Public Buildings, 44 FR 27473 (May 10)
 Marine Mammal Commission (At the Federal Register)
 National Aeronautics & Space Administration, 44 FR 27181 (May 9)
 National Capital Planning Commission, 44 FR 33185 (June 8)
 Postal Service, 44 FR 36991 (June 25)
 Tennessee Valley Authority, 44 FR 39679 (July 6)

Category #2: Anticipate Publication of Proposed Procedures by July 30

This category includes agencies which have developed a draft of implementing procedures as a basis for consultation with the Council and are expected to publish proposed procedures in the Federal Register by July 30, 1979.

Department of Agriculture*
 Soil Conservation Service
 Department of Defense*
 Department of the Navy
 Department of Housing and Urban Development
 Department of Health, Education and Welfare**
 Food and Drug Administration
 Department of the Interior*
 Bureau of Mines
 Bureau of Reclamation
 Fish and Wildlife Service
 Geological Survey
 Heritage Conservation and Recreation Service
 National Park Service
 Office of Surface Mining Control and Reclamation
 Department of Labor
 Department of Transportation*
 Federal Highway Administration
 Urban Mass Transportation Administration
 Department of State
 Federal Energy Regulatory Commission
 National Science Foundation
 Pennsylvania Avenue Development Corporation
 Veterans Administration
 Water Resources Council and River Basin Commissions

Category #3: Publication of Proposed Procedures Delayed Beyond July 30

This category includes agencies which are not expected to publish proposed procedures in the Federal Register by July 30, 1979.

Action

Civil Aeronautics Board
 Community Services Administration
 Consumer Product Safety Commission
 Department of Agriculture*
 Farmers Home Administration
 Science and Education Administration
 Department of Commerce
 Economic Development Administration
 National Oceanic and Atmospheric Administration
 Department of Defense*
 Department of the Army
 Department of Health, Education and Welfare
 Department of the Interior*
 Bureau of Indian Affairs
 Bureau of Land Management
 Department of Transportation*
 National Highway Traffic Safety Administration
 Farm Credit Administration
 Federal Deposit Insurance Corporation
 Federal Home Loan Bank Board
 Federal Reserve System
 Interstate Commerce Commission
 National Credit Union Administration
 Nuclear Regulatory Commission
 Securities and Exchange Commission
 Small Business Administration
 Smithsonian Institution

The development of agency implementing procedures is a critical stage in Federal efforts to reform the NEPA process. These procedures must, of course, be consistent with the Council's regulations and provide the means for reducing paperwork and delay and producing better decisions in agency planning and decisionmaking.

Interested persons will have the opportunity to make their suggestions for improving agency procedures when they are published in the Federal Register in proposed form. Broad public participation at this crucial juncture could go a long way toward ensuring that the goals of the NEPA regulations are widely implemented in the day-to-day activities of government.

Nicholas C. Yost,
 General Counsel.

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DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Maalaea Small Boat Harbor Project, Maalaea, Maui

July 11, 1979.

AGENCY: U.S. Army Corps of Engineers, DoD, Honolulu District.

ACTION: Notice of Intent to Prepare a DEIS.

SUMMARY: 1. Brief Description of the Proposed Action. The proposed action is a harbor improvement project, the major objectives of which are to reduce surge within the harbor, reduce the navigational hazard in the entrance channel and provide for additional berthing spaces.

2. Brief Description of the Reasonable Alternatives. Preliminary alternative plans are based on input from the public as well as oceanographic information obtained from computer wave refraction analysis, theoretical wave diffraction analysis, aerial photographs, an underwater reconnaissance investigation and an examination of offshore subsurface borings. The authorized plan and four preliminary alternative plans all include realignment of the entrance channel. The authorized plan and one alternative plan propose extension of the existing south breakwater. Another alternative proposes construction of an offshore breakwater, and the fourth alternative includes construction of a new breakwater approximately 250 feet seaward (south) of the existing south breakwater which would substantially increase berthing space in the harbor.

3. Brief Description of the Corps Scoping Process Which is Reasonably Foreseeable for the DEIS.

a. Proposed Public Involvement Program. The program will involve coordination with the sponsoring agencies, other governmental agencies, community organizations, and the general public. Activities include informal meetings, workshops, formal public meetings, issuance of public notices and letter responses. All pertinent agencies have been notified of study initiation. An initial public meeting was held with interested agencies and the public in January 1979 and two workshops have been conducted subsequently in April and June of 1979.

b. Identification of Significant Environmental Issues to be Analyzed in Depth in the DEIS.

* Departmental Procedures Already Published.
 ** Departmental Procedures in Category #1.

STATINTL

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